

HOUSE BILL No. 1811

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-14.

Synopsis: Mutual insurance holding company act. Authorizes a mutual insurance company (MIC) to reorganize as a mutual insurance holding company (MIHC) with one or more subsidiaries. Establishes principles for the protection of the surplus of an MIHC for the exclusive benefit of its members. Authorizes the formation of stock insurance company subsidiaries and intermediate stock holding companies as subsidiaries of an MIHC. Establishes requirements that any plan of reorganization or initial plan to issue stock must meet, including requirements that the plan be filed before July 1, 2001, that public hearings be held, and that the members of an MIC vote in favor of the plan after notice. Establishes certain requirements applying to
(Continued next page)

Effective: July 1, 1999.

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January 26, 1999, read first time and referred to Committee on Insurance, Corporations and Small Business.



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Digest Continued

mutual insurance holding companies, including the requirement to file annual reports with the insurance commissioner. Prohibits an MIHC and its subsidiaries and affiliates from taking certain actions, including the payment of special compensation to an officer or director for services associated with a stock offering.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1811

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-14 IS ADDED TO THE INDIANA CODE AS
2 A **NEW ARTICLE** TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 1999]:

4 **ARTICLE 14. MUTUAL INSURANCE HOLDING COMPANY**
5 **LAW**

6 **Chapter 1. General Provisions and Definitions**

7 **Sec. 1. This article may be referred to as the Indiana mutual**
8 **insurance holding company law.**

9 **Sec. 2. (a) The requirements of this section constitute the**
10 **members' surplus protection principle for purposes of this article.**

11 **(b) For purposes of this article:**

12 **(1) a mutual insurance company (MIC) is owned by the**
13 **members of the mutual insurance company; and**

14 **(2) a mutual insurance holding company (MIHC) organized**
15 **under this article is owned by the members of the mutual**



insurance holding company.

(c) The members' surplus must be maintained for the exclusive benefit of the members of the MIHC.

(d) Except as provided by subsection (e), after the effective date of a reorganization under this article:

(1) a dividend authorized for or paid to the shareholders of any subsidiary of the MIHC;

(2) an employee benefit plan provision; and

(3) other actions of an MIHC or its subsidiaries;

may not be made, granted, enforced, or taken if the dividend, benefit, payment, or other action reduces the members' surplus.

(e) Only the following may decrease the members' surplus:

(1) Dividends paid to eligible persons who were members of the MIC on the effective date of the reorganization.

(2) Supervision of a subsidiary of the MIHC under IC 27-9.

(3) A reduction in the market value of a security or other asset of the members' surplus.

(f) The commissioner may not take or permit an action under this title that conflicts with the members' surplus protection principle of this section.

(g) For the purposes of this article, ownership means that the policyholders or members having voting rights as provided by law and by the MIC's or MIHC's articles of incorporation and bylaws and the right to receive cash, stock, or other assets in the event of a conversion to a stock company under IC 27-1-8-13 or a dissolution under IC 27-1-10, as provided by those laws and by the MIC's or MIHC's articles of incorporation or bylaws.

(h) Notwithstanding any provision of this article, if an MIHC converts to a stock insurance company under this title, the members' surplus must be maintained for the exclusive benefit of, or available for distribution to, the eligible members of the MIC that reorganized as an MIHC.

Sec. 3. The definitions set forth in this chapter apply throughout this article.

Sec. 4. (a) Subject to subsection (b), "acting in concert" means:

(1) a knowing participation in a joint activity whether or not under an express agreement;

(2) interdependent conscious parallel action toward a common goal under an express agreement or otherwise; or

(3) a combination or pooling of voting interests or other interests in the securities of any person for a common purpose under any contract, understanding, relationship, agreement,



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or other arrangement, written or otherwise.

(b) An employee benefit plan is acting in concert with:

(1) its trustee; or

(2) a person who serves in a capacity similar to a trustee;
solely for the purpose of determining whether capital stock held by
the trustee or the person in a similar capacity and capital stock
held by the plan will be aggregated.

Sec. 5. "Adoption date" means, with respect to a plan, the date
on which the board of directors approves a plan of an applicant
under this article.

Sec. 6. "Affiliate" means a person who, directly or indirectly:

(1) controls;

(2) is controlled by; or

(3) is under common control with;

another person.

Sec. 7. "Applicant" means, with respect to a plan, a person that
has submitted the plan to the commissioner under this article.

Sec. 8. (a) Subject to subsection (b), "associate" means any of
the following:

(1) With respect to a particular person, a corporation, a
business entity, or other organization (other than the
applicant or a subsidiary or an affiliate of the applicant) for
which the person is:

(A) an officer;

(B) a partner; or

(C) directly or indirectly the beneficial owner of at least
ten percent (10%) of any class of equity securities.

(2) With respect to an individual who is a director or an
officer of the applicant or of any of the applicant's
subsidiaries or affiliates, a:

(A) relative;

(B) spouse; or

(C) relative of the spouse;

of the individual who shares the domicile of the individual.

(3) With respect to a particular person, any trust or other
estate in which the person has a substantial beneficial interest
or for which the person serves as trustee or in a similar
fiduciary capacity.

(b) The term does not apply to a person that:

(1) has a beneficial interest in; or

(2) serves as a trustee or in a similar fiduciary capacity for;
an employee benefit plan.



Sec. 9. "Board" means:

- (1) the board of directors of an MIHC, an MIC, an intermediate stock holding company, or a stock insurance company subsidiary; or
- (2) another board or committee that is responsible, under the articles or bylaws of the company, for decisions involving the structure or management of an MIHC, MIC, intermediate stock holding company, or stock insurance company subsidiary.

Sec. 10. "Commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.

Sec. 11. "Company" means an entity:

- (1) formed and legally existing under this title; or
- (2) that:
 - (A) is owned, entirely or in part, directly or indirectly, by an MIHC; and
 - (B) owns directly or indirectly all or part of the stock of a stock insurance company subsidiary.

Sec. 12. "Effective date" means, with respect to a plan, the date on which the plan becomes effective under this article.

Sec. 13. "Eligible member" means, with respect to a plan, a person who is a member of an MIC or MIHC, as applicable, on the adoption date of a plan.

Sec. 14. "Employee benefit plan" means an employee benefit plan established by an MIHC, or by one (1) or more of the subsidiaries of an MIHC, for the benefit of its:

- (1) employees; or
- (2) sales agents.

Sec. 15. "Intermediate stock holding company" means a company other than a stock insurance company subsidiary and its subsidiaries that:

- (1) is owned entirely or in part, directly or indirectly, by an MIHC; and
- (2) directly or indirectly owns all or part of the capital stock of a stock insurance company subsidiary.

Sec. 16. "Internal Revenue Code" refers to the Internal Revenue Code of 1986, as amended.

Sec. 17. "Member" means a person that, according to the:

- (1) records; and
 - (2) articles of incorporation and bylaws;
- of an MIC or MIHC, as applicable, is a member of the MIC or MIHC, as applicable.



1 **Sec. 18. "Members' surplus"** means the surplus and any built-in
 2 gains of a mutual insurance company that exist on the effective
 3 date of a reorganization under this article.

4 **Sec. 19. "Mutual insurance company" or "MIC"** means a
 5 mutual insurer that is:

- 6 (1) submitting; or
- 7 (2) subject to;
- 8 a plan of reorganization under this article.

9 **Sec. 20. "Mutual insurance holding company" or "MIHC"**
 10 means a mutual insurance holding company established under
 11 IC 27-14-2.

12 **Sec. 21. "Net income after taxes and net realized gains"** means:

- 13 (1) as to stock insurance company subsidiaries, the net income
 14 of the stock insurance company subsidiary after:

15 (A) income taxes; and

16 (B) net realized gains (as reduced by capital gains tax, if
 17 any) on the sale of assets that were held as of the effective
 18 date of the reorganization;

19 as reported on its statutory annual statements; or

- 20 (2) as to any intermediate stock holding company, the
 21 consolidated net income of the intermediate stock holding
 22 company after:

23 (A) income taxes; and

24 (B) net realized gains (as reduced by capital gains tax, if
 25 any) on the sale of assets that were held as of the effective
 26 date of the reorganization;

27 as reported on its audited consolidated financial statements.

28 **Sec. 22. "Outside director"** means an individual who:

- 29 (1) is a member of a board of:

30 (A) an MIHC;

31 (B) an intermediate stock holding company; or

32 (C) a stock insurance company subsidiary;

- 33 (2) is not a member, officer, employee, or consultant of:

34 (A) the MIHC, intermediate stock holding company, or
 35 stock insurance company subsidiary on whose board the
 36 individual serves; or

37 (B) a parent company or subsidiary of the MIHC,
 38 intermediate stock holding company, or stock insurance
 39 company subsidiary on whose board the individual serves;

- 40 (3) does not directly or indirectly own, control, or hold any of
 41 the voting capital stock or other dividend paying instrument
 42 of:



(A) the MIHC, intermediate stock holding company, or stock insurance company subsidiary on whose board the individual serves; or

(B) a parent company or subsidiary of the MIHC, intermediate stock holding company, or stock insurance company subsidiary on whose board the individual serves;

(4) is not an officer, member of the board of directors, employee, or member of the immediate family of a person who directly or indirectly owns, controls, or holds any of the voting capital stock or other dividend paying instrument of:

(A) the MIHC, intermediate stock holding company, or stock insurance company subsidiary on whose board the individual serves; or

(B) a parent company or subsidiary of the MIHC, intermediate stock holding company, or stock insurance company subsidiary on whose board the individual serves; and

(5) does not own a policy issued by the MIC or stock insurance company subsidiary of the MIHC.

Sec. 23. "Parent company" means either of the following:

(1) As to an intermediate stock holding company, the mutual holding company of which the intermediate stock holding company is a subsidiary.

(2) As to a stock insurance company subsidiary, the mutual holding company or intermediate stock holding company of which the stock insurance company subsidiary is a subsidiary.

Sec. 24. "Participating policy" means an insurance policy providing for the distribution of policy dividends.

Sec. 25. "Person" means any of the following:

(1) An individual.

(2) An aggregation of individuals acting in concert.

(3) A trust.

(4) An association.

(5) A partnership.

(6) A limited liability company.

(7) A corporation.

Sec. 26. "Plan" means a plan:

(1) of reorganization; or

(2) to issue stock.

Sec. 27. "Plan of reorganization" means a plan adopted under IC 27-14-2.

Sec. 28. "Plan to issue stock" means a plan to issue shares of



voting capital stock adopted under IC 27-14-4.

Sec. 29. "Policy" means a contract providing one (1) or more of the kinds of insurance described in IC 27-1-5-1.

Sec. 30. "Stock insurance company subsidiary" means a stock insurance company that is owned entirely or in part by an MIHC or an intermediate stock holding company.

Sec. 31. "Subsidiary" means, with respect to a particular person, an affiliate of the person that is controlled by the person, either:

(1) directly; or

(2) indirectly, through one (1) or more intermediaries.

Sec. 32. "Voting capital stock" means capital stock whose holder has the right to vote in the election of directors.

Chapter 2. Mutual Insurance Company Reorganization

Sec. 1. (a) A mutual insurance company (MIC) may reorganize under this chapter as a mutual insurance holding company (MIHC) with one (1) or more subsidiaries after the following have occurred:

(1) The favorable vote of its board of directors to reorganize.

(2) The filing of an application with the commissioner before July 1, 2001.

(3) A notice of a public hearing is made to its members and the public.

(4) At least one (1) public hearing conducted by the commissioner.

(5) The approval of the commissioner of the plan.

(6) A favorable vote of the eligible members of the MIC.

(7) The issuance of an order of completion by the commissioner.

(b) The subsidiaries of an MIC that reorganizes as an MIHC under this chapter:

(1) must include at least one (1) stock insurance company subsidiary; and

(2) may include one (1) or more intermediate stock holding companies.

Sec. 2. The reorganization of an MIC as an MIHC under this chapter may be accomplished by the following means as approved by the commissioner:

(1) The establishment of at least one (1) company.

(2) The amendment or restatement of the articles and bylaws of any company.

(3) The transfer or acquisition of any or all of the assets and



liabilities of any company.

(4) The merger of two (2) or more mutual insurance companies.

(5) The merger of two (2) or more intermediate stock holding companies as part of the merger of two (2) or more MIHCs.

(6) The merger of two (2) or more stock insurance companies.

Sec. 3. (a) A plan of reorganization under this chapter must be adopted by the board of directors of the MIC.

(b) For a plan of reorganization to be adopted by the board of directors of an MIC, at least seventy-five percent (75%) of the members of the board of directors must vote in favor of the adoption.

Sec. 4. Within ninety (90) days after the adoption of a plan of reorganization and before a vote on the plan by the members, the company adopting the plan must file with the commissioner an application containing the following:

(1) A plan of reorganization.

(2) The form of the notices to be sent to members under this chapter, including a notice of the public hearing and a notice informing members of their right to vote on the plan.

(3) A copy of the:

(A) proposed articles of incorporation; and

(B) bylaws;

of each company to be formed under the plan in compliance with the requirements of IC 27-1-6.

(4) If it is necessary to amend the current articles of incorporation or bylaws of any company that is affected by the plan, a copy of:

(A) the proposed articles of amendment; and

(B) amended bylaws;

of the company, which in the case of each domestic insurance company must comply with the requirements of IC 27-1-8.

(5) A list of the officers and directors of each company that is created or affected by the plan of reorganization.

Sec. 5. A plan of reorganization filed with the commissioner under this chapter must meet the following requirements:

(1) It must describe all significant terms of the proposed reorganization.

(2) It must describe in narrative form any plan to issue stock that may be proposed in connection with the plan of reorganization.

(3) It must describe the:

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(A) reasons for and purposes of the proposed reorganization; and

(B) manner in which the reorganization is expected to benefit and serve the best interests of the members.

The plan must include an analysis of the risks and benefits of the proposed reorganization, and a comparison of those risks and benefits with the risks and benefits of reasonable alternatives (including demutualization of the MIC) to the reorganization.

(4) It must provide that, after the effective date of the reorganization, the MIHC must at all times have the direct or indirect power to cast at least fifty-one percent (51%) of the votes for the election of directors of:

(A) all stock insurance company subsidiaries; and

(B) an intermediate stock holding company;
of the MIHC.

(5) It must provide that:

(A) the:

(i) membership interests of the members of the MIC remain membership interests in the MIHC; and

(ii) members' surplus protection principle will govern the actions of the MIHC and its subsidiaries;

under the articles of incorporation and bylaws of the MIHC;

(B) the membership interest of a member of the MIHC may not be transferred, assigned, pledged, or alienated in any manner except in connection with a transfer, assignment, pledge, or alienation of the policy from which the membership interest is derived; and

(C) the membership interest of a member of the MIHC will automatically terminate upon the lapse or other termination of the policy from which the membership interest is derived.

(6) It must describe how the plan of reorganization is to be carried out, including a description of a contemplated transfer, acquisition, or assumption of assets, rights, franchises, interests, debts, liabilities, or other obligations of the applicant and any other company affected by the plan of reorganization.

(7) It must describe the:

(A) establishment of companies;

(B) amendment or restatement of the articles and bylaws

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- 1 of a company; and
 2 (C) merger of companies;
 3 that will take place under the plan of reorganization.
 4 (8) It must provide a list of:
 5 (A) all individuals who are or have been selected to become
 6 directors or officers of the MIHC and its subsidiaries; and
 7 (B) other individuals who perform or will perform duties
 8 customarily performed by a director or officer.
 9 (9) The list prepared under subdivision (8) must include, for
 10 each individual on the list:
 11 (A) the individual's principal occupation;
 12 (B) all offices and positions the individual has held in the
 13 preceding five (5) years;
 14 (C) any crime of which the individual has been convicted
 15 (other than traffic violations) in the preceding ten (10)
 16 years;
 17 (D) information concerning any personal bankruptcy of
 18 the individual or the individual's spouse during the
 19 previous seven (7) years;
 20 (E) information concerning the bankruptcy of any
 21 corporation of which the individual was an officer or
 22 director during the previous seven (7) years;
 23 (F) information concerning any state or federal securities
 24 law allegations against the individual that within the
 25 previous ten (10) years resulted in:
 26 (i) a determination that the individual violated the state
 27 or federal securities law;
 28 (ii) a plea of nolo contendere; or
 29 (iii) a consent decree;
 30 (G) information concerning the revocation during the
 31 previous ten (10) years of any state or federal license issued
 32 to the individual; and
 33 (H) information as to whether the individual was refused
 34 a performance or other bond or any stock insurance
 35 company subsidiary.
 36 (10) With respect to a policy that goes into force after the
 37 effective date of the reorganization, the policy must provide
 38 that:
 39 (A) the owner of the policy; or
 40 (B) another person or persons specified in:
 41 (i) the policy; or
 42 (ii) the MIHC's articles of incorporation or bylaws;



becomes a member of the MIHC except that a plan of reorganization may provide that any person who becomes an owner of a policy or who would otherwise become a member under a policy issued during a particular period of not more than three (3) years immediately after the effective date of the plan of reorganization will not become a member until after the expiration of that period.

(11) It must provide that, with regard to a policy of the MIC in force on the effective date of the plan of reorganization:

(A) the policy continues to remain in force under the policy's terms as the policy of a stock insurance company subsidiary;

(B) the policyholder continues to have the right to receive policy dividends as provided for in the policy;

(C) the policyholder's right to benefits, values, guarantees, and other policy obligations of the MIC continues after the effective date of the plan of reorganization as obligations of the stock insurance company subsidiary; and

(D) the dividends paid on the policy after the effective date of the plan of reorganization increase in proportion to:

(i) increases in earned surplus available for the payment of dividends; and

(ii) any increase in dividends paid on policies issued after the effective date of the plan of reorganization.

(12) It must describe the nature and content of the annual report and financial statement to be sent to each member following the reorganization.

(13) It must demonstrate that, in the event of proceedings under IC 27-9 involving a stock insurance company subsidiary of the MIHC that resulted from the reorganization of a domestic MIC, the assets of the MIHC are available to satisfy the policyholder obligations of the stock insurance company subsidiary.

(14) It must provide any additional information that the commissioner may request.

Sec. 6. (a) A plan of reorganization that is adopted by the board of directors of the applicant may be:

(1) amended by the board of directors of the applicant:

(A) in response to the comments or recommendations of the commissioner, or any other state or federal agency or entity, before any solicitation of proxies from the members to vote on the plan of reorganization; and



- (B) otherwise, with the consent of the commissioner; or
- (2) terminated by the board of directors of the applicant:
 - (A) before notice is sent to the members under section 8 of this chapter; or
 - (B) with the consent of the commissioner.
- (b) For a plan of reorganization to be:
 - (1) amended; or
 - (2) terminated;

by the board of directors of an MIC, at least seventy-five percent (75%) of the members of the board of directors must vote in favor of the amendment or termination.

Sec. 7. (a) The commissioner shall, as soon as practicable after a plan of reorganization is filed with the commissioner, conduct a public hearing in Indianapolis at a place, date, and time specified by the commissioner to afford interested persons an opportunity to present information, views, arguments, or comments about the plan.

(b) At least thirty (30) days before a hearing held under this section, the commissioner shall publish notice of the hearing in a newspaper of general circulation in:

- (1) the city of Indianapolis;
- (2) the city in which the principal office of the applicant is located; and
- (3) other cities or towns that the commissioner considers appropriate.

The commissioner may provide written notice of the hearing by other means and to other persons that the commissioner considers appropriate.

(c) The notice provided under this section must:

- (1) refer to the applicable statutory provisions;
- (2) state the date, time, and location of the hearing; and
- (3) include a brief statement of the subject of the hearing.

(d) At a public hearing under this section, an interested person may appear and:

- (1) file a written statement;
- (2) make an oral presentation;
- (3) pose questions to witnesses; and
- (4) examine the evidence.

(e) At the discretion of the commissioner or the commissioner's appointee, testimony may be taken under oath or by affirmation at a public hearing under this article.

Sec. 8. The applicant shall, at least thirty (30) days before the



public hearing required under this chapter, mail notice of the public hearing to eligible members of the MIC. The notice must achieve a minimum score of forty (40) on the Flesch reading ease test or an equivalent score on a comparable test approved by the commissioner. The notice must include the following:

- (1) Reference to the applicable statutory provisions.
- (2) A statement of the date, time, and location of the hearing.
- (3) A brief statement of the subject of the hearing, including specific notice to the member that the member's ownership interest in the MIC will be affected by the reorganization.

Sec. 9. The commissioner shall not approve a plan of reorganization submitted under this article unless the applicant has shown, by a preponderance of the evidence, that the plan of reorganization:

- (1) complies with the law;
- (2) includes the disclosures and notices required under this article;
- (3) is fair to the members of the MIC; and
- (4) complies with the members' surplus protection principle.

Sec. 10. Not more than one hundred eighty (180) days after the filing of the application relating to the plan, or a longer period if agreed to by the applicant and the commissioner, the commissioner shall approve or disapprove a plan of reorganization. The commissioner's approval of the plan must be conditioned upon:

- (1) the approval of the plan by the eligible members under this chapter; and
- (2) the requirements of sections 17 and 18 of this chapter.

Sec. 11. The commissioner shall immediately notify the applicant upon reaching a decision on a plan of reorganization.

Sec. 12. (a) A plan of reorganization of an MIC must be submitted for approval by the eligible members of the MIC after approval of the application by the commissioner under section 10 of this chapter. A vote by the eligible members to approve the plan must be made at a special or annual meeting held under IC 27-1-7-7 and this chapter.

(b) The eligible members must be sent notice of the meeting at which a plan of reorganization will be submitted for approval by eligible members. The notice must:

- (1) be mailed at least thirty (30) days before the meeting;
- (2) refer to the applicable statutory provisions;
- (3) state the date, time, and location of the meeting;
- (4) include a brief statement of the subject of the meeting; and



(5) describe the member's right to attend and participate in the meeting.

(c) The notice sent under this section must achieve a minimum score of forty (40) on the Flesch reading ease test or an equivalent score on a comparable test approved by the commissioner.

Sec. 13. Before the special or annual meeting at which the eligible members of an MIC vote on a plan of reorganization, the MIC shall provide the eligible members with information about the plan sufficient for the members, in the reasonable determination of the commissioner, to make an informed decision about the plan of reorganization.

Sec. 14. Notwithstanding IC 27-1-7-9, with respect to a vote under section 12 of this chapter, an eligible member:

(1) may vote in person or by proxy if the proxy:

(A) includes reference to the applicable statutory provisions;

(B) states the date, time, and location of the meeting;

(C) contains a brief statement of the subject of the meeting, including specific notice to the member that the member's interest in the MIC that will be affected by the reorganization; and

(D) was solicited and obtained from the member after the MIC has submitted the plan of reorganization to the commissioner under this article; and

(2) is entitled to cast only one (1) vote on the proposed plan of reorganization, regardless of the number of policies or the amount of insurance that the member has with the applicant or any affiliate of the applicant.

Sec. 15. For a plan of reorganization to be approved by members of an MIC, at least sixty-seven percent (67%) of the eligible members must vote in person or by proxy in favor of the plan.

Sec. 16. Within thirty (30) days after members have approved a plan of reorganization at a special or annual meeting of members under this chapter, an applicant must file with the commissioner the minutes of the meeting at which the plan of reorganization was approved.

Sec. 17. (a) Before the commissioner issues a permit for completion of organization under subsection (b):

(1) the commissioner must have issued notice to the applicant that the commissioner has approved the plan of reorganization of the applicant under section 10 of this



chapter;

(2) a public hearing must have been conducted under this chapter;

(3) the commissioner must have received the minutes of the meeting of the members at which the plan was approved reflecting that the plan of reorganization was on the agenda and the plan was approved, if the members voted to approve the plan at a special or annual meeting; and

(4) the articles of incorporation of the applicant must have been certified by the secretary of state and transmitted to the commissioner.

(b) After the events referred to in subsection (a), the commissioner shall issue:

(1) a permit for completion of organization as provided in IC 27-1-6-11, in the case of a newly organized domestic insurance company; or

(2) an amended certificate of authority as provided in IC 27-1-8-9, in the case of amended articles of incorporation of a domestic insurance company.

Sec. 18. A plan of reorganization is effective when each stock insurance company subsidiary or MIHC affected by the plan has filed:

(1) its articles of incorporation or, if appropriate, its articles of amendment; and

(2) the certificate of authority issued to the company by the commissioner under this chapter;

in the office of the county recorder of the county in which the principal office of the company is located.

Sec. 19. The organization of any domestic insurance company under a plan of reorganization under this article must be conducted under IC 27-1-6 concerning the formation of domestic insurance companies.

Sec. 20. The amendment of the articles of incorporation of a domestic insurance company under a plan of reorganization under this article must be conducted in compliance with IC 27-1-8.

Chapter 3. Mutual Insurance Holding Companies

Sec. 1. An MIHC organized under this article:

(1) must meet the requirements of IC 27-14-2; and

(2) is subject to rules that the commissioner may adopt under IC 4-22-2.

Sec. 2. The articles of incorporation of an MIHC must contain the following, or provisions at least substantially equivalent to the



following:

(1) The name of the MIHC, which must include the term "mutual" or the abbreviation "MIHC".

(2) A provision that no actions will be taken by the MIHC that contravene the members' surplus protection principle established in this article.

(3) A provision specifying that the MIHC must, at all times, have the direct or indirect power to cast at least fifty-one percent (51%) of the votes for the election of directors of each stock insurance company subsidiary and any intermediate stock holding company.

(4) A provision specifying that the MIHC does not have the power to engage in the business of issuing insurance policies or contracts, except through a stock insurance company subsidiary.

(5) A provision specifying that the MIHC is not authorized to issue voting or any other capital stock.

(6) A provision setting forth the rights of members of the MIHC in the equity of the MIHC upon liquidation, including the rights of the members to the assets of the MIHC.

(7) A provision specifying that:

(A) a member of the MIHC is not, as a member, personally liable for the acts, debts, liabilities, or obligations of the MIHC; and

(B) no assessment may be imposed upon the members of the MIHC by any person, including:

(i) the board of directors, members, or creditors of the MIHC; and

(ii) any governmental office or official, including the commissioner;

because of any liability of any company or because of any act, debt, or liability of the MIHC.

Sec. 3. Members of an MIHC have rights and obligations specified in:

(1) this article; and

(2) the articles of incorporation and bylaws of the MIHC.

Sec. 4. (a) On the effective date of the reorganization of an MIC as an MIHC under this chapter, the MIHC must have the direct or indirect power to cast one hundred percent (100%) of the votes for the election of directors of:

(1) all stock insurance subsidiaries; and

(2) an intermediate stock holding company;



1 of the MIC.

2 (b) After the effective date of the reorganization of an MIC as
3 an MIHC under this chapter, the MIHC must at all times have the
4 direct or indirect power to cast at least fifty-one percent (51%) of
5 the votes for the election of directors of:

6 (1) all stock insurance company subsidiaries; and

7 (2) an intermediate stock holding company;

8 of the MIC.

9 Sec. 5. Material transactions between:

10 (1) an MIHC and its subsidiaries; or

11 (2) subsidiaries of an MIHC;

12 must be fair and reasonable to the members of the MIHC, comply
13 with the members' surplus protection principle, and be approved
14 by the commissioner.

15 Sec. 6. At least sixty-seven percent (67%) of the following must
16 be made up of outside directors:

17 (1) The board of directors of an MIHC.

18 (2) The board of directors of an intermediate stock holding
19 company.

20 (3) The board of directors of a stock insurance company
21 subsidiary.

22 (4) Each committee of the board of directors of:

23 (A) an MIHC;

24 (B) an intermediate stock holding company; or

25 (C) a stock insurance company subsidiary.

26 Sec. 7. With the written approval of the commissioner, and
27 subject to any conditions imposed by the commissioner, an MIHC
28 may do any of the following:

29 (1) Merge or consolidate with, or acquire the assets of:

30 (A) an MIHC organized under this article; or

31 (B) a similar entity organized under the laws of any other
32 state.

33 (2) Acquire the stock of a stock insurance company as a
34 subsidiary of the MIHC or an intermediate stock holding
35 company of the MIHC.

36 (3) Organize an intermediate stock holding company as a
37 wholly owned subsidiary.

38 (4) Organize a stock insurance company as a subsidiary.

39 (5) Acquire the stock or assets of any noninsurance related
40 corporation.

41 Sec. 8. (a) Except as provided in subsection (b), an MIHC:

42 (1) has and may exercise all the rights and privileges of



insurance companies formed under this title; and
 (2) is subject to all the requirements and regulations imposed upon insurance companies formed under this title.

(b) The exceptions referred to in subsection (a) are as follows:

(1) An MIHC does not have the right or privilege to write insurance (except through a stock insurance company subsidiary) and is not subject to any requirement or rule adopted under IC 4-22-2 relating to the writing of insurance.

(2) An MIHC is not subject to the surplus requirements in IC 27-1-6-15.

(3) An MIHC is not subject to any statute or rule adopted under IC 4-22-2 that is imposed upon insurance companies formed under this title to the extent that the statute or rule is in conflict with this article.

Sec. 9. Not later than July 1, an MIHC shall file with the commissioner an annual statement containing the following information:

(1) Audited financial statements, including:

(A) an income statement;

(B) a balance sheet;

(C) a statement of cash flows; and

(D) footnotes.

(2) Complete information on the status of any condition imposed in connection with the approval of a plan of reorganization.

(3) An investment plan covering all assets of the MIHC.

(4) A statement that the MIHC and its affiliates have complied with section 13 of this chapter.

(5) A statement that describes any changes in the members' surplus and the reason for any such change in the members' surplus.

Sec. 10. (a) An MIHC and its affiliates constitute an insurance holding company system (as defined in IC 27-1-23-1).

(b) Notwithstanding subsection (a), a separate filing or approval is not required under IC 27-1-23 for an acquisition or a reorganization that is included in a plan approved under this article.

Sec. 11. A membership interest in an MIHC does not constitute a security under Indiana law.

Sec. 12. (a) After the effective date of a plan of reorganization, the officers and directors of the MIHC:

(1) owe the same fiduciary responsibilities to the members of



the former MIC and to new members of the MIHC as the officers and directors of the former MIC owed to the members before the effective date of the plan of reorganization;

(2) are subject to potential liability to the members of the former MIC and to new members of the MIHC to the same extent as the officers and directors of the former MIC were to the members before the effective date of the plan of reorganization; and

(3) owe a fiduciary duty to the members of the MIHC to follow the members' surplus protection principle.

(b) An action may be brought to recover for the violation of fiduciary responsibilities under this article in accordance with IC 34-11-2-4 or, in the case of fraud, in accordance with IC 34-11-2-7.

Sec. 13. (a) The following transactions between an MIHC or an affiliate of an MIHC and any person other than an affiliate may not be entered into unless the MIHC has notified the commissioner in writing of its intention to enter into such a transaction at least thirty (30) days before entering into the transaction, or a shorter period if permitted by the commissioner, and the commissioner has not disapproved it within that period:

(1) Sales, purchases, exchanges, loans or extensions of credit, guarantees, or investments, provided those transactions are equal to or exceed three percent (3%) of the MIHC's assets as of December 31 of the previous year.

(2) Loans or extensions of credit to any person who is not an affiliate of the MIHC, if the MIHC makes those loans or extensions of credit with the agreement or understanding that the proceeds of such transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the MIHC making the loans or extensions of credit, provided those transactions are equal to or exceed three percent (3%) of the MIHC's assets as of December 31 of the previous year.

(3) Management agreements, service contracts, and costsharing arrangements.

(4) Material transactions, specified by rule, that the commissioner determines may adversely affect the interests of the policyholders of affiliates of the MIHC or that do not comply with the members' surplus protection principle.



1 This subsection does not authorize or permit any transactions not
2 otherwise authorized under this article.

3 (b) An MIHC and its affiliates may not enter into transactions
4 that are part of a plan or series of like transactions if the purpose
5 of those separate transactions is to avoid the statutory threshold
6 amount and avoid the review required under this section.

7 (c) A stock insurance company subsidiary or intermediate stock
8 holding company of the MIHC that has any shareholder other than
9 the MIHC or a direct or indirect wholly owned subsidiary of the
10 MIHC may not declare or pay any dividend or other distribution
11 on its capital stock except to the extent of one (1) or more years of
12 net income earned and accumulated (on a consolidated basis as to
13 any intermediate stock holding company) after the effective date
14 of the plan of reorganization after deduction of:

15 (1) income taxes; and

16 (2) net realized capital gains (as reduced by capital gains tax,
17 if any) on the sale of assets that were held by the MIC as of
18 the effective date of the reorganization.

19 Chapter 4. Issuance of Capital Stock

20 Sec. 1. (a) This chapter applies only to the initial public offering
21 of voting capital stock by a subsidiary of an MIHC after a
22 reorganization under this article.

23 (b) A subsidiary organized under this title may issue shares of
24 any class or type of capital stock permitted under this title, and
25 other subsidiaries, including an intermediate stock holding
26 company, may issue any type of stock permitted by the law under
27 which it is organized. However, a stock insurance company
28 subsidiary and an intermediate stock holding company may issue
29 shares of voting capital stock to a person or entity other than:

30 (1) the MIHC of which it is a subsidiary; or

31 (2) an intermediate stock holding company or stock insurance
32 company subsidiary that is a direct or indirect subsidiary of
33 the MIHC referred to in subdivision (1);

34 only in compliance with this article.

35 Sec. 2. A plan to issue voting capital stock under this chapter
36 must be adopted:

37 (1) by the board of directors of the MIHC; or

38 (2) in the case of a plan to issue shares of voting capital stock
39 that is not concurrent with the formation of the MIHC, by the
40 board of directors of the stock insurance company subsidiary
41 or intermediate stock holding company proposing to issue the
42 stock.



1 **Sec. 3.** A board of directors that adopts a plan to issue voting
 2 capital stock under this chapter may amend or withdraw that plan
 3 at any time before the effective date. However, after the
 4 commissioner has approved a plan to issue voting capital stock, the
 5 plan may not be amended unless the commissioner approves the
 6 amendment.

7 **Sec. 4.** Within ninety (90) days after the adoption of a plan to
 8 issue voting capital stock, the stock insurance company subsidiary
 9 or intermediate stock holding company adopting the plan must file
 10 with the commissioner an application that contains the following:

- 11 (1) A proposed plan to issue voting capital stock.
- 12 (2) The form of notice to be sent to members, informing
- 13 members of their right to vote on the plan.
- 14 (3) The form of the proxy statement to be used to solicit the
- 15 votes of members. The form must describe the plan and must
- 16 achieve a minimum score of forty (40) on the Flesch reading
- 17 ease test or an equivalent score on a comparable test
- 18 approved by the commissioner.
- 19 (4) The form of proxy to be solicited from members.
- 20 (5) A copy of the proposed articles of incorporation and
- 21 bylaws of each domestic insurance company to be formed
- 22 under the plan in compliance with the requirements of
- 23 IC 27-1-6.
- 24 (6) If it is necessary to amend the current articles of
- 25 incorporation or bylaws of a company that is affected by the
- 26 plan, a copy of the proposed articles of amendment and
- 27 amended bylaws of the company, which in the case of each
- 28 domestic insurance company must comply with the
- 29 requirements of IC 27-1-8.
- 30 (7) A list of the officers and directors of a company that is
- 31 affected by the plan.
- 32 (8) A description of:
 - 33 (A) the voting capital stock intended to be offered by the
 - 34 applicant;
 - 35 (B) all shareholder rights applicable to the voting capital
 - 36 stock intended to be offered by the applicant;
 - 37 (C) the total number of shares authorized to be issued;
 - 38 (D) the estimated number of shares the applicant intends
 - 39 to offer; and
 - 40 (E) the intended date or range of dates for the offering.
- 41 (9) A list of:
 - 42 (A) the name or names of any underwriter, syndicate

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member, or placement agent involved;

(B) if known by the applicant, the name or names of each person or group of persons who will control five percent (5%) or more of the total outstanding shares of the class of voting capital stock to be offered; and

(C) if any of the persons listed under clause (A) or (B) is a corporation or other business organization, the name of each member of its board of directors or equivalent management body.

(10) Copies of any filings with the United States Securities and Exchange Commission disclosing intended acquisitions of voting capital stock of the applicant.

(11) A description of all expenses expected to be incurred in connection with the offering.

(12) Any other information requested by the commissioner.

Sec. 5. (a) A plan to issue voting capital stock in a public offering (other than an offering solely in connection with a consolidation, merger, share exchange, or other business combination or an offering of stock under a stock option or other employee benefit plan) must do the following:

(1) Provide for each eligible member to receive, without payment, nontransferable subscription rights to purchase a portion of the voting capital stock of the applicant.

(2) Specify how subscription rights are to be allocated in whole shares of voting capital stock among the eligible members.

(3) Provide a fair and equitable means for allocating shares of voting capital stock in the event of an oversubscription to the shares by eligible members exercising subscription rights received under this chapter.

(4) Provide that any shares of voting capital stock not subscribed to by eligible members exercising subscription rights received under this chapter, or not subscribed to by an employee benefit plan or by directors, officers, and employees exercising subscription rights, will be sold:

(A) in a public offering through an underwriter;

(B) through private placement; or

(C) by any other method approved by the commissioner that is fair and equitable to members.

(5) Require a person that exercises subscription rights to:

(A) purchase at least the minimum number of shares of voting capital stock; or



- 1 (B) if the person purchases less than the minimum number
 2 of shares, make a purchase of shares of voting capital stock
 3 in at least the minimum amount.
- 4 (6) Require that at least three (3) members of the board of
 5 directors of each:
- 6 (A) intermediate stock holding company; and
 7 (B) stock insurance company subsidiary;
 8 of the MIHC must be persons who are not officers or
 9 employees of the MIHC or any of its subsidiaries.
- 10 (7) Provide that the MIHC will adopt articles of incorporation
 11 or articles of amendment that include a provision prohibiting
 12 the MIHC from waiving any dividends from its subsidiaries
 13 except:
- 14 (A) under conditions specified in the articles of
 15 incorporation; and
 16 (B) after approval of the waiver by the board of directors
 17 of the MIHC and by the commissioner.
- 18 (8) Establish a pricing committee within the board of
 19 directors of the entity making the offering of voting capital
 20 stock, consisting exclusively of outside directors.
- 21 (b) The minimum number of shares of voting capital stock
 22 established under subsection (a)(5)(A) may not be more than one
 23 hundred (100) shares.
- 24 (c) The minimum amount of a purchase of shares of voting
 25 capital stock established under subsection (a)(5)(B) may not be
 26 more than two thousand dollars (\$2,000).
- 27 Sec. 6. Subject to the limitations of IC 27-14-5, a plan to issue
 28 voting capital stock may do the following:
- 29 (1) Provide an allocation without payment of nontransferable
 30 subscription rights to purchase not more than ten percent
 31 (10%) of the total amount of outstanding voting capital stock
 32 to one (1) or more employee benefit plans that satisfy the
 33 requirements of Section 401(a), 403(b), 404(c), 408, 423, or
 34 501(c)(9) of the Internal Revenue Code, limited to the extent
 35 that unsubscribed shares of voting capital stock remain after
 36 the members have exercised their subscription rights.
- 37 (2) Provide for:
- 38 (A) the establishment of; and
 39 (B) the allocation of not more than four percent (4%) of
 40 the total amount of outstanding voting capital stock to;
 41 an employee benefit plan that provides benefits that are
 42 subject to taxation under Section 83 of the Internal Revenue

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Code or that complies with the requirements of Section 422 of the Internal Revenue Code, for the purpose of granting stock or stock options.

(3) Provide that the articles of incorporation of a subsidiary of the MIHC may, subject to specified exceptions, prohibit a:

(A) person; or

(B) group of persons acting in concert; acting directly or through associates, from acquiring more than a specified percentage of any class of the issued and outstanding shares of capital stock of the issuing subsidiary.

(4) Provide that the aggregate number of shares of outstanding voting capital stock purchased by an eligible member that exercises subscription rights may not exceed:

(A) a specified number of shares equal to at least one percent (1%) of the total number of outstanding shares; or

(B) a specified percentage of not less than one percent (1%) of the total number of outstanding shares.

(5) Provide that subscription rights need not be granted to an eligible member who resides in a foreign country or other jurisdiction for which the commissioner determines that all of the following apply:

(A) A small number of eligible members reside in the jurisdiction.

(B) The granting of subscription rights or the offer or sale of voting capital stock to eligible members in the jurisdiction would require the issuer or its officers or directors to:

(i) register, under the securities laws of the jurisdiction, as a broker, dealer, salesman, or agent; or

(ii) register, or otherwise qualify, the voting capital stock for sale in the jurisdiction.

(C) The registration, qualification, or filing in the judgment of the commissioner would be impracticable or unduly burdensome for reasons of cost or otherwise.

Sec. 7. Notwithstanding any provision of this article, an MIHC or an affiliate of an MIHC may not use any form of a stock option or other preference with respect to the sale or purchase of any voting capital stock or other equity instrument of the MIHC or an affiliate of the MIHC to compensate an officer or director of the MIHC or an affiliate of the MIHC for services in connection with a plan to issue stock.

Chapter 5. Restrictions on Capital and Other Stock



1 **Sec. 1. A plan to issue voting capital stock that is filed with the**
 2 **commissioner under this article must do the following:**

3 **(1) Describe the reasons for and the purposes of the proposed**
 4 **issuance of shares of voting capital stock and the manner in**
 5 **which the issuance is expected to benefit and serve the best**
 6 **interests of the members.**

7 **(2) Require that, after the effective date, the MIHC must at all**
 8 **times have the direct or indirect power to cast at least**
 9 **fifty-one percent (51%) of the votes for the election of**
 10 **directors of each stock insurance company subsidiary and any**
 11 **intermediate stock holding company.**

12 **(3) Provide that the aggregate number of shares of voting**
 13 **capital stock owned by all of the directors and officers of the**
 14 **MIHC and its subsidiaries and associates may not exceed:**

15 **(A) within five (5) years after the initial issuance of voting**
 16 **capital stock, five percent (5%) of the total number of**
 17 **shares of voting capital stock to be issued; and**

18 **(B) more than five (5) years after the initial issuance of**
 19 **voting capital stock, ten percent (10%) of the total number**
 20 **of shares of voting capital stock to be issued;**

21 **including any shares acquired by the officers and directors**
 22 **and their associates through discounted subscriptions,**
 23 **employee benefit plans, or stock options.**

24 **(4) Provide that the aggregate number of shares of voting**
 25 **capital stock purchased by:**

26 **(A) a single director or officer of the MIHC or the**
 27 **subsidiaries of the MIHC;**

28 **(B) associates of the person referred to in clause (A); and**

29 **(C) persons acting in concert with the person referred to in**
 30 **clause (A) or (B);**

31 **may not exceed five percent (5%) of the total number of**
 32 **shares to be issued under the plan, including any shares**
 33 **attributed to the officers and directors and their associates**
 34 **but held by one (1) or more tax qualified employee benefit**
 35 **plans.**

36 **(5) Provide that the aggregate number of shares of all**
 37 **nonvoting equities and other nonvoting dividend paying**
 38 **instruments owned by all of the directors and officers of the**
 39 **MIHC and its subsidiaries and associates may not exceed:**

40 **(A) within five (5) years after the initial issuance of voting**
 41 **capital stock, five percent (5%) of the total number of**
 42 **shares of nonvoting equities or other nonvoting dividend**

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1 paying instruments to be issued; and

2 (B) more than five (5) years after the initial issuance of
3 voting capital stock, ten percent (10%) of the total number
4 of shares of nonvoting equities or other dividend paying
5 instruments to be issued.

6 (6) Provide that the aggregate number of shares of nonvoting
7 equities or other nonvoting dividend paying instruments
8 purchased by:

9 (A) a single director or officer of the MIHC or the
10 subsidiaries of the MIHC;

11 (B) associates of the person referred to in clause (A); and

12 (C) persons acting in concert with the person referred to in
13 clause (A) or (B);

14 may not exceed five percent (5%) of the total number of
15 shares of nonvoting equities and other nonvoting dividend
16 paying instruments to be issued under the plan, including any
17 nonvoting equities or instruments attributed to the officers
18 and directors and their associates but held by one (1) or more
19 tax qualified employee benefit plans.

20 (7) Provide that a director, officer, agent, or employee of the
21 MIHC or its subsidiaries, or an associate of a director, officer,
22 agent, or employee, may not receive a fee, commission, or
23 other valuable consideration for aiding, promoting, or
24 assisting in the issuance of voting capital stock under this
25 section, except for:

26 (A) compensation as provided for in the plan and approved
27 by the commissioner;

28 (B) the person's usual, regular salary or compensation;
29 and

30 (C) reasonable fees and compensation paid to an individual
31 who is an attorney, accountant, or actuary for services
32 performed in the individual's independent practice, even
33 if the individual is also a director, officer, agent, or
34 employee of the MIHC or its subsidiaries.

35 (8) Provide that the aggregate number of shares of voting
36 capital stock that may be purchased by an employee benefit
37 plan may not exceed ten percent (10%) of the total number of
38 shares to be issued under the plan.

39 (9) Describe:

40 (A) how the offering price of the voting capital stock to be
41 sold is established; or

42 (B) the method by which the offering price will be

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determined.

**Chapter 6. Public Hearing, Commissioner Approval, and
Effective Date of Plan to Issue Stock**

Sec. 1. Not more than:

(1) sixty (60) days after the acceptance of an application filed with respect to a plan to issue stock under IC 27-14-4; or
(2) a longer period after the application is filed, as determined by the commissioner upon a showing of good cause;
the commissioner may conduct a public hearing in Indianapolis at a place, date, and time specified by the commissioner to afford interested persons an opportunity to present information, views, arguments, or comments in regard to the plan.

Sec. 2. (a) At least thirty (30) days before a hearing held under this chapter, the commissioner shall publish notice of the hearing in a newspaper of general circulation in:

- (1) the city of Indianapolis;
- (2) the city in which the principal office of the applicant is located; and
- (3) another city or cities that the commissioner considers appropriate;

may provide written notice of the hearing by other means and to other persons that the commissioner considers appropriate.

(b) The notice provided under this section must:

- (1) refer to the applicable statutory provisions;
- (2) state the date, time, and location of the hearing; and
- (3) include a brief statement of the subject of the hearing.

Sec. 3. At a public hearing on a plan to issue stock held under this chapter:

- (1) a member or any other interested person may appear and:
 - (A) file a written statement; or
 - (B) make an oral presentation; and
- (2) at the discretion of the commissioner or the commissioner's appointee, testimony may be taken under oath or by affirmation.

Sec. 4. In compliance with the later of:

- (1) sixty (60) days after a public hearing held under this chapter; or
- (2) one hundred twenty (120) days after the commissioner accepts the application relating to the plan;

the commissioner shall approve or disapprove the plan under IC 27-14-4 to issue stock.

Sec. 5. The commissioner shall approve a plan to issue stock



submitted under IC 27-14-4 unless the commissioner makes at least one (1) of the following findings with respect to the plan:

(1) Disapproval of the plan is necessary to prevent practices that will cause financial impairment to the applicant or its subsidiaries.

(2) The financial or management resources of the applicant or its subsidiaries or affiliates warrant disapproval.

(3) The plan does not comply with the provisions of this article.

(4) The proposed plan is unfair to members.

(5) The plan does not comply with the members' surplus protection principles of this article.

Sec. 6. (a) The commissioner shall immediately notify the applicant upon reaching a decision on a plan submitted under this chapter.

(b) If the commissioner disapproves a plan, the commissioner shall provide the applicant with a written statement detailing the reasons for the disapproval.

(c) A decision of the commissioner approving a plan to issue stock must specify the method by which the offering price will be determined.

Sec. 7. The approval by the commissioner of a plan to issue stock expires one hundred eighty (180) days after the date of approval, except as otherwise provided by an order of the commissioner.

Sec. 8. The organization of a domestic insurance company under a plan under this article must be conducted in compliance with the provisions of IC 27-1-6 concerning the formation of domestic insurance companies, except as provided in this chapter.

Sec. 9. The amendment of the articles of incorporation of a domestic insurance company under a plan under this article must be conducted in compliance with IC 27-1-8, except as provided in this chapter.

Chapter 7. Miscellaneous Provisions

Sec. 1. (a) This article, while independent of any other law, is supplemental to IC 27-1-2 through IC 27-1-20.

(b) All provisions of IC 27-1-2 through IC 27-1-20 are fully and completely applicable to this article in the same manner as if the provisions of this article had been an original part of IC 27-1-2 through IC 27-1-20. If any conflict exists between this article and IC 27-1-2 through IC 27-1-20, this article is controlling.

Sec. 2. A civil action:



1 (1) challenging the validity of; or
 2 (2) arising out of;
 3 action that is taken or proposed to be taken under this article must
 4 commence not later than sixty (60) days after the approval by the
 5 commissioner of the plan under which or in respect of which the
 6 action is taken or proposed to be taken.

7 Sec. 3. The provisions of this article are severable in the manner
 8 provided in IC 1-1-1-8(b).

9 Sec. 4. (a) A person who is aggrieved by an agency action of the
 10 commissioner under this article may petition for judicial review of
 11 the action under IC 4-21.5-5.

12 (b) A person who is aggrieved by a failure of the commissioner
 13 to act or make a determination required by this article may bring
 14 an action for mandate in the circuit court of Marion County to
 15 compel the commissioner to act or make the determination.

16 Sec. 5. An MIHC and its subsidiaries and affiliates may not do
 17 any of the following:

18 (1) Lend funds to any person to finance the purchase of stock
 19 in a stock offering by an MIHC or any of its subsidiaries other
 20 than policyholder loans granted under the terms of an
 21 insurance policy of a subsidiary.

22 (2) Pay commissions, special fees, or other special or
 23 extraordinary compensation to officers, directors, interested
 24 persons, or affiliates for arranging, promoting, aiding,
 25 assisting, or participating in the structure or placement of a
 26 stock offering by the MIHC or any of its subsidiaries, except
 27 to the extent permitted under IC 27-14-4.

28 (3) Enter into an understanding or agreement transferring
 29 legal or beneficial ownership of stock to another person in
 30 avoidance of this article.

31 Sec. 6. A stock insurance company subsidiary to which
 32 insurance policies, contracts, and other assets and obligations are
 33 transferred in connection with a plan of reorganization under this
 34 article has, with respect to the insurance policies, contracts, and
 35 other assets and obligations, all rights, liabilities, and authority of
 36 the MIC that is the subject of the plan of reorganization. An MIHC
 37 resulting from a plan of reorganization of an MIC under this
 38 article has all obligations and liabilities of the MIC for any claims,
 39 asserted or otherwise, relating to the ownership interests of the
 40 policyholders or members of the MIC, or to the value of the
 41 ownership interests, that existed at the effective date of the
 42 reorganization.



1 **Sec. 7. If a proceeding is pending against an MIC that is the**
2 **subject of a plan of reorganization under this article:**

3 **(1) the proceeding may be continued after the effective date,**
4 **as if the reorganization had not occurred; or**

5 **(2) the stock insurance company subsidiary that succeeds to**
6 **the MIC's business may be substituted in the proceeding for**
7 **the MIC;**

8 **except that the MIHC resulting from the plan of reorganization**
9 **shall be substituted for the MIC and any subsidiaries of the MIC**
10 **in all proceedings involving claims relating to the ownership**
11 **interests of the policyholders or members of the MIC, or to the**
12 **value of the ownership interests, that existed at the effective date**
13 **of the reorganization.**

14 **Sec. 8. Subject to IC 27-14-1-2, an MIHC may convert to a stock**
15 **insurance holding company under IC 27-1-8-13 as though the**
16 **MIHC were an MIC.**

17 **Sec. 9. The commissioner shall, at the applicant's expense, hire**
18 **attorneys, actuaries, accountants, investment bankers, and other**
19 **experts as may be necessary to assist the commissioner in**
20 **reviewing all matters under this article that are associated with a**
21 **plan of reorganization or a plan to issue stock. The commissioner**
22 **may at any time require an applicant to deposit an amount of**
23 **money with the department of insurance in anticipation of**
24 **expenses to be incurred by the commissioner under this article.**

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